

### **REMARKS**

Claims 47-66 are now pending in the application. Claims 1-20, 37-41, 45, and 46 are canceled without prejudice. Claims 47-66 are new and supported by the specification and claims, as originally filed. No new matter is added. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **REJECTION UNDER 35 U.S.C. § 112**

Claims 1-20 and 37, 38, 40, 41, 45, and 46 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicant regards as the invention.

Claims 1-20 and 37, 38, 40, 41, 45, and 46 are canceled without prejudice. Therefore this rejection is now moot.

### **REJECTION UNDER 35 U.S.C. § 103**

Claims 1-6, 8, 9, 11, 12, 15-20, 37-41, and 45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Estes (U.S. Pat. No. 5,578,034) in view of Ishida (U.S. Pat. No. 5,158,409).

Claims 7 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Estes in view of Ishida in view of Eisermann et al (U.S. Pat. No. 6,342,055; "Eisermann").

Claims 13 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Estes in view of Ishida further in view of Bailey et al (U.S. Pat. No. 6,599,290; "Bailey"). This rejection is respectfully traversed.

Claim 46 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Estes in view of Ishida in view of Pohndorf et al (U.S. Pat. No. 5,904,683; "Pohndorf").

Claims 1-20, 37-41, and 45 are canceled without prejudice. Therefore these rejections are now moot.

#### **NEW CLAIMS**

Claims 47-66 are new and supported by the specification and claims, as originally filed. No new matter is added. Support can be found generally throughout the application and more particularly, for example, in paragraphs [0041]-[0045], [0047] and [00048], and in FIGS. 1, 3-5, and 13-16.

Claims 47, 58 and 65 are independent claims. The art cited in the Office Action, either individually or in combination, fails to disclose all the limitations of each independent claim. For example, the cited art at least fails to disclose an annular member selectively expandable in a radial direction from an unexpanded position to an expanded position, wherein in the unexpanded position the fastener shaft and the annular member can rotate freely about the axis of the fastener shaft and seat in the fixation hole at various angles relative to the fixation plate, and wherein in the expanded position the fastener shaft and annular member are prevented from backing out of the fixation hole, as independent claim 47 recites.

Similarly, the cited art at least fails to disclose an expandable annular member having an outer spherical surface and an inner surface defining an inner cam, the inner cam circumferentially mating and aligned with the outer cam in an unexpanded configuration of the annular member, the inner cam circumferentially misaligned relative to the outer shaft cam in an expanded configuration of the annular member, such that in the unexpanded configuration the fastener shaft and the annular member can rotate freely about the longitudinal axis of the fastener shaft and seat in the fixation hole at various angles relative to the fixation plate, and in the expanded configuration the fastener shaft and annular member are prevented from backing out of the fixation hole, as independent claim 58 recites.

With respect to new independent claim 65, the cited art at least fails to disclose an annular member carried in a groove of the fastener shaft for relative articulation with the fastener shaft, the annular member defining an outer surface received within the fixation hole to allow orientation of the fastener shaft at various angles relative to the bone fixation plate, the annular member having an inner surface cooperating with an outer surface of the fastener shaft to radially expand the annular member from an unexpanded position to an expanded position for preventing the fastener shaft from backing out of the fixation hole.

Among other limitations further defining over the cited art, the dependent claim (e.g., claims 48, 59 and 66) recite the dual modes of operation provided by the present bone fixation apparatus. In this regard, the claims recite both a semi-constrained mode of operation and a constrained mode of operation.

Applicants respectfully submit that the new claims are patentable over the cited art.


#### CONCLUSION

It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

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Respectfully submitted,

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